IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 603 OF 2005

Deepak Bhanwar Sharma Atal ...Petitioner

Versus

Mrs. Jayashree Deepak Atal & Ors ..Respondents

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Mr. R.R.Salvi with G.R. Hegde, Advocate for Petitioner

Mr. Y.T. John i/b R.N. Sukhiya, Adv.for R. No.1.

Mr.P.R. Salvi, Adv.for Respondent Nos. 3 and 4.

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 9TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner i.e. original accused, the learned advocate for the respondent No.1 i.e. original complainant, the learned advocate for the respondent Nos. 3 and 4 i.e. original accused Nos. 2 and 3 and the learned A.P.P. for the State.

2. The respondent No.1 i.e. original complainant had filed a complaint against the petitioner and the respondent Nos. 3 and 4 at Malbar Hill police station. The said complaint is registered as F.I.R.

/C.R. No.15 of 2003 and it is under Section 498-A, 406(2), 323 r.w. 34 of I.P.C. and under Section 3 and 4 of Dowry Prohibition Act, 1961. The petitioner is seeking quashing of the said complaint.

3. It is stated that there was matrimonial proceedings between the petitioner and the respondent No.1 i.e. original complainant before the 5th Family Court at Bandra, Mumbai. The said proceedings were numbered as M.J. Petition No. A-201 of 2003. In the said proceedings consent terms came to be filed. As per the consent terms, both the parties have agreed that they will withdraw the complaints filed against each other pending before any forum and will co-operate with each other in this matter. The consent terms further provides that the husband (present petitioner) undertakes to withdraw the cases/complaints i.e. case No. 125/2004 pending before the Court of competent jurisdiction at Kota, Rajasthan which complaint has been filed by him and his father and relatives. The consent terms further provides that they would also withdraw the appeal filed by the father of the petitioner in case No. 351 of 2003 and Final Report No. 100 of 2003 and withdraw the appeal pending before the competent Court at Kota, Rajasthan. These steps were to be taken by the present petitioner after receipt of the jewellery as per the panchanama dated 15.3.2004 of

Malbar Hill Police station. The complainant has brought the jewellery today before the court and it is handed over to the petitioner before this Court. The petitioner has checked the jewellery and found it to be correct. The petitioner has also handed over the undertaking which is accepted and taken on record. In the said undertaking the petitioner has stated that he undertakes to withdraw and/or to take all necessary steps to quash the case No. 125 of 2004 filed by him and pending before the Addl. Civil Appellate Jurisdiction Judge (A & B) and Judicial Magistrate, 1st Class, S North Kota, Rajasthan at the earliest. The respondent No.3 i.e. original accused has also submitted an undertaking to this Court and he undertakes to withdraw Appeal in Case No. 351 of 2003 of F.R. No.100 of 2003 pending before the Competent Court at Kota, Rajasthan at the earliest. The said undertakings are accepted and taken on record.

4. The learned advocate for respondent No.1 states that in view of these undertakings submitted to this court by the petitioner as well as the respondent No.3, he has no objection if the F.I.R./ C.R. No. 15 of 2003 of Malbar Hill police station is quashed.

5. Looking to the fact that the dispute has been amicably settled between the parties and looking to

the fact that the complainant does not wish to pursue her complaint, I am of the opinion that no purpose would be achieved in continuing with the prosecution relating to C.R. No.15 of 2003, hence, C.R. No. 15 of 2003 of Malbar Hill police station at Mumbai and the proceedings relating thereto are quashed.

6. Writ petition is disposed of.

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